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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,056	01/25/2001	John T. Lette	MS160207.1	7200
27195	7590	12/16/2005	EXAMINER	
AMIN & TUROCY, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114			LEE, PHILIP C	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/770,056	Applicant(s) LETTE ET AL.	
	Examiner Philip C. Lee	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. In view of the Appeal Brief filed on 9/22/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.
2. To avoid abandonment of the application, appellant must exercise one of the following two options:
  - (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
  - (2) request reinstatement of the appeal.
3. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).
4. Claims 1-32 are presented for examination.
5. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

*Claim Rejections - 35 USC 101*

6. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 31 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A data packet is a non-statutory invention (i.e., carrier signal).

*Claim Rejections - 35 USC 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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6. Claims 31 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Takahashi et al, U.S. Patent 6,539,481 (hereinafter Takahashi).

9. Takahashi was cited in the last office action.

10. As per claim 31, Takahashi taught the invention as claimed comprising:  
information concerning pre-allocating one or more resources for access by one or more registering consumers, the information including at least one of: a resource type; a resource name; a resource capacity; a resource location; a resource availability; an association between a resource and a resource managing component (col. 5, lines 18-25; col. 6, lines 33-44).

11. As per claim 32, Takahashi taught the invention as claimed comprising:  
means for pre-allocating the at least one resource (i.e., computer resource pool 5) for consumption by a consumer (col. 5, lines 18-25);  
means for determining whether data concerning the consumer has been replicated to one or more resource managing component (col. 5, lines 66-col. 6, lines 19);  
means for associating the at least one pre-allocated resource with a first resource managing component, where the first resource managing component manages the at least one pre-allocated resource for the consumer before the data concerning the consumer has been replicated to the one or more resource managing components (col. 6, lines 33-56); and

Note that the management section 3 manages the computer resource pool 5 before the user "uchida" is register at the computer resource list 4. As shown in fig. 4, the data concerning the consumer's home directory with user name "uchida" has been replicated to one of the resource managing component (e.g., computer resource list 4) means for routing a request generated by the consumer, for whom data has not been replicated to the one or more resource managing components, to the first resource managing component (col. 5, lines 31-37).

*Claim Rejections – 35 USC 103*

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-9, 22-23, 25 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi in view of Dworkin, U.S. Patent Application Publication 20020071540 (hereinafter Dworkin).

14. As per claims 1, 22-23 and 30, Takahashi taught the invention substantially as claimed for pre-allocating at least one resource, comprising:

pre-allocates the at least one resource (col. 5, lines 18-25);  
an identifier adapted to determine whether a consumer utilizing the at least one resource is a registering consumer or a registered consumer (col. 4, lines 16-25, 48-52, 59-66; col. 5, lines 66-col. 6, lines 2);  
an associator adapted to associate the at least one allocated resource with a first resource manager, the first resource manager operable to manage the at least one pre-allocated resource for the registering consumer (col. 6, lines 33-56; col. 3, lines 59-63); and  
a router adapted to route a request requiring access to the at least one resource associated with the registering consumer to the first resource manager (col. 5, lines 31-37).

15. Takahashi did not specifically teach an allocator. Dworkin taught an allocator (page 2, paragraph 16).

16. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi and Dworkin because Dworkin's teaching of an allocator would increase the functionality of Takahashi's system by allocating hardware and software resources to enable transmission and reception of data between the resources and the users (page 2, paragraphs 14 and 16).

17. As per claims 2 and 27, Takahashi and Dworkin taught the invention substantially as claimed in claims 1 and 23 above. Dworkin further taught wherein the at least one resource is allocated to a consumer registering to use an application (page 2, paragraphs 14 and 16).

18. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi and Dworkin for the same reason set forth in claims 1 and 23 above.

19. As per claim 3, Takahashi and Dworkin taught the invention substantially as claimed in claim 2 above. Takahashi further taught wherein the application is available over a network (col. 3, lines 51-56).

20. As per claims 4 and 28-29, Takahashi and Dworkin taught the invention substantially as claimed in claims 3 and 27 above. Dworkin further taught wherein the network is the Internet (page 2, paragraph 14).

21. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi and Dworkin because Dworkin's teaching of the internet would increase the mobility of a user in Takahashi's system by allowing a user to access resources remotely over the Internet.

22. As per claim 5, Takahashi and Dworkin taught the invention substantially as claimed in claim 1 above. Dworkin further taught wherein the at least one resource is allocated to a consumer registering to use a service (page 2, paragraphs 14 and 16).



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23. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi and Dworkin for the same reason set forth in claims 1 and 23 above.

24. As per claims 6, Takahashi and Dworkin taught the invention substantially as claimed in claim 5 above. Dworkin further taught wherein the service is available over the Internet (page 2, paragraph 14).

25. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi and Dworkin because Dworkin's teaching of the service is available over the internet would increase the mobility of a user in Takahashi's system by allowing a user to access services remotely over the Internet.

26. As per claim 7, Takahashi and Dworkin taught the invention substantially as claimed in claim 1 above. Takahashi further taught wherein the identifier is a computer process (col. 4, lines 16-29).

27. As per claim 8, Takahashi and Dworkin taught the invention substantially as claimed in claim 1 above. Takahashi further taught wherein the associator is a computer process (col. 6, lines 33-44).

28. As per claim 9, Takahashi and Dworkin taught the invention substantially as claimed in claim 1 above. Takahashi further taught wherein the router is a computer process (col.5, lines31-37).

29. As per claim 25, Takahashi and Dworkin taught the invention as claimed in claim 23 above. Takahashi further taught wherein the request requiring access to the resource is not necessarily routed to the first resource manager if the data associated with registering consumer has been replicated to one or more resource managers, the request being routable to the one or more resource managers to which the data has been replicated (col. 1, lines 37-61).

30. Claims 10-11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi and Dworkin in view of Makarios et al, U.S. Patent 6,401,125 (hereinafter Makarios).

31. Makarios was cited in the last office action.

32. As per claims 10 and 26, Takahashi and Dworkin taught the invention substantially as claimed in claims 1 and 23 above. Takahashi and Dworkin did not specifically detailing the type of requests. Makarios taught the identifier operable to receive Hypertext Transfer Protocol (HTTP) requests (col. 4, lines 30-38).

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33. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi, Dworkin and Makarios because Makarios's system of receiving Hypertext Transfer Protocol (HTTP) request would increase the field of use in Takahashi's and Dworkin's systems by allowing a client to request for Hypertext Transfer Protocol objects (col. 4, lines 33-34).

34. As per claim 11, Takahashi, Dworkin and Makarios taught the invention as claimed in claim 10 above. Makarios further taught wherein the identifier distinguishes consumer requests by examining at least part of a persistent client side hypertext file (cookie) (col. 3, lines 1-10; col. 4, lines 30-38; col. 5, lines 46-49).

35. Claims 12-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi and Dworkin in view of Zadikian et al, U.S. Patent 6,631,134 (Zadikian).

36. Zadikian was cited in the last office action.

37. As per claims 12, 15 and 24, Takahashi and Dworkin taught the invention substantially as claimed in claims 1 and 23 above. Takahashi and Dworkin did not specifically detailing records of association information. Zadikian taught wherein the associator records association information concerning an association between the at least one resource and the first resource manager in one or more data structures (col. 21, lines 4-15).

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38. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi, Dworkin and Zadikian because Zadikian's method of recording association information would increase the efficiency of Takahashi's and Dworkin's systems by allowing the resource manager to quickly determine a resource's failure (col. 21, lines 13-15).

39. As per claim 13, Zadikian further taught wherein the one or more data structures include at least one of, a table, an array, a list, a tree, a linked list, a hash and a heap (col. 21, lines 11-12).

40. As per claims 14 and 16, Takahashi, Dworkin and Zadikian taught the invention substantially as claimed in claims 12 and 15 above. Zadikian further taught wherein the one or more data structures contain a mapping between the at least one resource and the first resource manager (col. 21, lines 4-15).

41. As per claims 17 and 20, Takahashi and Dworkin taught the invention substantially as claimed in claim 1 above. Takahashi and Dworkin did not teach accessing routing information. Zadikian taught wherein the router accesses one or more data structures containing routing information that facilitates routing the request associated with the registering consumer to the first resource manager (col. 5, lines 34-37).

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42. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi, Dworkin and Zadikian for the same reason set forth in claims 12, 15 and 24 above.

43. As per claim 18, Takahashi, Dworkin and Zadikian taught the invention substantially as claimed in claim 17 above. Zadikian further taught wherein the one or more data structures include at least one of, a table, an array, a list, a tree, a linked list, a hash and a heap (col. 21, lines 11-12).

44. As per claims 19 and 21, Takahashi, Dworkin and Zadikian taught the invention as claimed in claims 18 and 20 above. Takahashi further taught wherein the one or more data structures contain one or more mappings for one or more consumers to one or more resource managers (col. 1, lines 37-48).

45. Applicant's arguments with respect to claims 1-32, filed 09/22/05, have been fully considered but are not deemed to be persuasive and moot in view of new grounds of rejection.

### **CONCLUSION**

46. A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone

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number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.



**JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**